

REMARKS

Previously submitted claims 20-25, 30, and 34-36 were rejected under 35 U.S.C. § 112 for indefiniteness. Previously submitted claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Apps et al. (U.S. Patent No. 6,006,677) in view of the publications entitled "Fire and Polyvinyl Chloride" ("the Vinyl Institute reference") and "The Synthesis and Characterization of New Thermoplastic Fire Resistant Materials" ("the McGrath reference"). Claim 19 has also been rejected under 35 U.S.C. § 102(b) as being anticipated by Apps et al.

Similarly, claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Gronnevik (U.S. Patent No. 5,845,588) or Gronnevik in view of the Vinyl Institute reference and the McGrath reference and, apparently, under 35 U.S.C. § 102(b) as being anticipated by Gronnevik.

Also, previously submitted claim 22 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Gronnevik. Previously submitted claims 20, 21, and 23-36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Gronnevik in view of Ford et al. (U.S. Patent No. 6,228,914).

It was also indicated that claims 11-18 and 37 are allowable. Claim 37 has been copied from claim 1 of U.S. Patent application Serial No. 10/890,351 ("the '351 application"). Claim 1 of the '351 application was amended on June 13, 2006 and allowed on October 3, 2006. The '351 application was expressly abandoned on November 3, 2006.

The addition of claim 37 was permissible, notwithstanding 35 U.S.C. § 135(b)(2), because the instant application has an earlier effective filing date than the '351 application. See *Ding et al. v. Singer et al.*, Interference No. 105,436 (BAPI August 24, 2007) at 13. A copy of the *Ding* decision was attached to the August 6, 2009 amendment to this application.

In response to the rejections, claim 19-36 have been cancelled without prejudice. Claims 1-10, which had previously been withdrawn due to a restriction requirement, have been cancelled without prejudice, as well.

New claims 38-45 have been added by amendment. Claims 38-45 have been copied from the '351 application. Claims 38-45, like claim 37, correspond to claims in the '351 application that were allowed on October 3, 2006 before being expressly abandoned by the applicant for the '351 application on November 3, 2006. Accordingly, the examination of claims 38-45 should not require additional searching and should not raise new issues.

The addition of claims 38-45, like the addition of claim 37, is permissible, notwithstanding 35 U.S.C. § 135(b)(2), because the instant application has an earlier effective filing date than the '351 application. See *Ding et al. v. Singer et al.*, Interference No. 105,436 (BAPI August 24, 2007) at 13. Accordingly, Applicant respectfully requests entry and allowance of claims 38-45 for the instant application.

In view of the cancellation of claims 1-10 and 19-36, no fee is required for filing new claims 38-45. The above discussed

amendments place all the pending claims in condition for allowance and do not add new matter. Accordingly, entry of the amendments under 37 C.F.R. §1.116 is respectfully requested.

Accordingly, in view of the above amendments, explanations and remarks, reconsideration and allowance of previously submitted claims 11-18 and 37, as well as newly submitted claims 38-45, is respectfully requested.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

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